

Wildlife Conservation Board  
Lower American River Conservancy  
Program Guidelines



**October 24, 2017**

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## 1.0 Introduction

### 1.1 Purpose of Guidelines

The purpose of these guidelines is to establish the process, procedures, and general requirements through which the Wildlife Conservation Board will administer the Lower American River Conservancy Program (Program) and to describe the role of the Program's statutorily created advisory committee.

### 1.2 Background

The Lower American River Conservancy Program Act was created by Assembly Bill 1716 which was signed into law in 2016 and became effective January 1, 2017 (Pub. Resources Code, § 5845 *et seq.* (the "Enabling Statute")). The Program was created to provide a state partner to work cooperatively with local agencies, particularly the County of Sacramento in its role as the Parkway Manager, and nonprofit organizations to help fund projects and provide grants to restore, enhance, interpret, protect, and improve public access to the American River Parkway's natural, recreational, educational, and cultural resources. The Legislature's intent was for the Program to be a continuation of the state's historic role in providing funding to advance the protection and restoration of the natural resources of the Lower American River while continuing the County of Sacramento's historic role in managing the lands and public uses of the American River Parkway.

### 1.3 The Wildlife Conservation Board and the Lower American River Conservancy Program Advisory Committee

The Program is administered by the Wildlife Conservation Board (WCB). The Enabling Statute also created the Lower American River Conservancy Program advisory committee (Committee). (Pub. Resources Code section 5845.4) The Committee consists of 12 members:

- Three members of the Board of Supervisors of the County of Sacramento, selected by a majority vote of the board of supervisors, or their designees;
- Two representatives of the City of Sacramento, which may include the Mayor and one member of the City Council of the City of Sacramento, or two members of the city council, selected by a majority vote of the city council, or their designees;
- The Mayor or a member of the City Council of the City of Rancho Cordova, selected by a majority vote of the city council, or his or her designee;
- Representatives from the Natural Resources Agency, the Department of Finance, and the State Lands Commission; and
- Three members from the public at large who have demonstrated knowledge of and expertise in the American River Parkway and the American River Parkway Plan. One member shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Rules, and one member shall be appointed by the Speaker of the Assembly.

The WCB's voting members shall have final authority over project approval and funding. The Committee's role in project evaluation is detailed in Section 3 below.

### 1.3 Program Funding and Objectives

The Enabling Statute created the Lower American River Conservancy Fund (Fund) in the State Treasury. (Pub. Resources Code, § 5845.9.) Monies in the Fund shall be available, upon appropriation, for the purposes of the Program. WCB shall administer the moneys appropriated for the Fund and may expend those moneys for capital improvements, land acquisition, support for the Program's operations, and other purposes consistent with the Enabling Statute. WCB may also accept money, grants, goods, or services contributed to it by a public agency or a private entity or person.

WCB shall prioritize expending moneys to develop and implement a natural resource management plan (Resource Management Plan) and to improve access to, and protection and restoration of, the American River Parkway. (Pub. Resources Code, § 5845.3.) WCB may also provide grants to other local agencies and nonprofit organizations whose projects are approved by the County of Sacramento for implementation of the Resource Management Plan.

WCB shall not provide any grants or take any actions that are inconsistent with the American River Parkway Plan, the Bushy Lake Preservation Act, or the Urban American River Parkway Preservation Act.

### 1.4 American River Parkway

The American River Parkway is defined by statute to include those portions of the area described in the American River Parkway Plan between the Nimbus Dam and the confluence of the American River with the Sacramento River. (Pub. Resources Code, § 5845.2(c).)

## 2.0 Project Funding Eligibility Requirements

### 2.1 Eligible Grant Applicants

Under the Program, eligible grantees are local public agencies and nonprofit organizations. (Pub. Resources Code, § 5845.6(a).)

### 2.2 Eligible Project Types

WCB may award grants for the following project purposes:

- The acquisition, restoration, enhancement, and maintenance of fish and wildlife habitat and other natural resources, including resources impacted by wildfire, within and adjacent to the American River Parkway.
- The improvement and expansion of public access, recreational areas, and recreational facilities, including trails.
- The enhancement of interpretive and educational facilities related to the American River Parkway

and its natural, cultural, and historic resources.

- The control and removal of invasive species and the propagation of native species.
- Improve and enhance lands within and adjacent to the American River Parkway. Projects funded on adjacent lands shall contribute to the advancement of American River Parkway values.
- Design, implement, and provide grants for stormwater capture and treatment projects to improve the quality of water that flows within and into the American River Parkway and to increase habitat for fish and wildlife. Stormwater projects may include lands within and adjacent to the American River Parkway and its tributaries downstream of the Nimbus Dam and within Sacramento County.

### 2.3 Project Funding Requirements

All grantees shall be required to enter into a grant agreement with the WCB which imposes certain conditions on the grantee and/or the landowner relative to project maintenance, monitoring, and long-term stewardship of the project improvements or land acquisition. WCB grant agreements are more fully explained in Section 4 below. Prior to WCB's voting members approving funding for any project, two statutory requirements must be met:

- (1) WCB staff shall consult with the County of Sacramento as to whether WCB's proposed action is consistent with the American River Parkway Plan, and
- (2) WCB must draft a staff report that includes all findings, written comments, and reports submitted by the County of Sacramento and the Parkway Manager as to whether WCB's actions are consistent with the American River Parkway Plan. (Pub. Resources Code, § 5845.5(b).)

## 3.0 Project Selection

### 3.1 Solicitation Notice

WCB will solicit grant proposals with the release of a solicitation, which will provide the solicitation schedule, and scoring criteria specific to the solicitation. It is expected that solicitations will be made available on the WCB website ([www.wcb.ca.gov](http://www.wcb.ca.gov)) once a year, at a minimum. A mailing list will be developed through a subscription link on the WCB website, and solicitation notices will be made available to all interested parties on the Program list.

### 3.2 Project Submittal Process

Generally, the application process will be conducted using forms provided through WCB's Program website. Application forms will be included in each solicitation. All materials, including application, attachments and supporting documentation, must be received by WCB no later than the deadline stipulated within the solicitation. Late submittals will not be accepted.

### 3.3 Project Review and Selection Process

Grant applications will be evaluated using the multi-step review process described below.

#### Administrative Review

Each application submitted to WCB will be subject to an administrative review, which will evaluate the eligibility and completeness of the application. Applications will first be reviewed for eligibility and completeness in accordance with these guidelines and Program requirements. This administrative review will use a "Pass/Fail" scoring method. Applications that are determined to be ineligible or incomplete will not be considered for funding.

#### Sacramento County Review

Following administrative review, all eligible and complete applications will be evaluated and reviewed by the County of Sacramento for consistency with the American River Parkway Plan. To be eligible for funding, the County of Sacramento ~~shall first determine that the proposed project is consistent~~ with the American River Parkway Plan.

#### Committee Review

Following completion of Sacramento County's review, WCB staff will present all eligible projects to the Committee for its review. The Committee shall ~~review~~ each eligible project and ~~make recommendations, in order of priority, for consideration by~~ WCB's voting board.

#### Wildlife Conservation Board Action

Following recommendation for funding by the Committee, WCB staff will prepare the project for presentation to WCB's voting members. Prior to presenting the project to the voting members of WCB, WCB staff shall ensure that all project documents are in order and the project is ready for approval, funding, and implementation. After presentation, WCB's voting members have sole and absolute discretion to approve or reject a project for funding.

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## 4.0 Project Approval and Implementation

### 4.1 Responsibility of the Grantee

The grantee will be responsible for carrying out the project and for managing finances, including but not limited to, invoicing, payments to contractors, subcontractors and suppliers, accounting and financial auditing, and other project management duties including monitoring and reporting requirements.

### 4.2 Awards

The final funding decisions will be made by the Wildlife Conservation Board. Successful applicants will work with an assigned WCB grant manager to finalize the grant agreement.

### 4.3 Grant Agreement

Grant agreements are not executed or final until authorized by WCB's voting members and fully signed by the grant recipient and WCB's Executive Director. No work is authorized under the grant until the grantee has received written notice to proceed from the WCB. Work performed prior to a fully executed

grant agreement and notice to proceed is done at the risk and expense of the applicant and cannot be reimbursed.

If someone other than the applicant owns all or any part of the project site, the applicant will be required to secure a written agreement with the landowner(s) acknowledging and consenting to the proposed project on the landowner's land and allowing the applicant to access, implement, and when applicable, operate, monitor, and maintain the project. (Pub. Resources Code, § 5845.7(a).)

#### 4.4 Invoicing and Payments for Development Project Grants

Grant agreements for development projects will be structured to provide for payment in arrears of work being performed. Funds cannot be disbursed until there is an executed grant agreement between WCB and the project applicant. Payments will be made on a reimbursement basis (i.e., the grantee pays for services, products or supplies, submits an invoice that must be approved by the WCB grant manager, and is then reimbursed by WCB). Funds will not be disbursed until all of the required environmental compliance and permitting documents have been received by WCB. WCB may retain from the grantee's reimbursements, for each period for which payment is made, an amount equal to 10 percent of the invoiced amount, pending satisfactory completion of the task or grant.

#### 4.5 Acquisition Projects Statutory Grant Requirements

Grant agreements for acquisition projects require that title to the lands to be acquired shall be held by the County of Sacramento or another local public entity willing to hold title to those lands. (Pub. Resources Code, § 5845.5(e).)

#### 4.6 Reporting and Monitoring

All successful grantees will be required to provide a final report. Additional specifications concerning performance measures, monitoring requirements, data management, quality assurance/quality control, and reporting desired by WCB or required by law will be provided in each grant agreement.

#### 4.7 Loss of Funding

Work performed under the grant agreement is subject to availability of funds through the State's budget process. If funding for the grant agreement is reduced, eliminated, or delayed by the Budget Act or through other budget control actions, WCB shall have the option to cancel the grant agreement, offer to the Grantee a grant agreement amendment reflecting the reduced amount, or suspend work. In the event of cancellation of the grant agreement or suspension of work, WCB shall provide written notice to the grantee and be liable only for payment for any work completed pursuant to the grant agreement up to the date of the written notice. WCB shall have no liability for payment for work carried out or undertaken after the date of written notice of cancellation or suspension. In the event of a suspension of work, WCB may remove the suspension of work by written notice to the Grantee. WCB shall be liable for payment for work completed from the date of written notice of the removal of the suspension of work, consistent with other terms of the grant agreement. In no event shall WCB be liable to the grantee for any costs or damages associated with any period of suspension, nor shall WCB be liable for any costs in the event that, after a suspension, no funds are available and the grant agreement is then cancelled based on budget actions.

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Although the language of 5845.5(e) does not address acquisition of lands adjacent to the Parkway and if those lands require local government ownership, section 5845.5 (e) is followed by Section 5845.6 et seq. which gives authority to "provide grants to local public agencies and nonprofit organizations to be used for one or more of the following purposes:

(1)The acquisition, restoration, enhancement, and maintenance of fish and wildlife habitat and other natural resources, including resources impact by wildfire, within and adjacent to the American River Parkway. Any land acquisition funded pursuant to this paragraph shall be subject to subdivision (e) of Section 5845.4."

Therefore, the initial acquisition (i.e., the entity for which a land acquisition grant can be awarded to) is limited to local public agencies and nonprofit organizations. State agencies cannot be awarded grants.



Actions of the State that may lead to suspension or cancellation include, but are not limited to:

- Lack of appropriated funds;
- Executive order directing suspension or cancellation of grant agreements; or
- California Department of Fish and Wildlife or California Natural Resources Agency directive requiring suspension or cancellation of grant agreements.

Actions of the grantee that may lead to suspension or cancellation of the grant agreement include, but are not limited to:

- Withdrawing from the grant program;
- Real property cannot be acquired at approved fair market value;
- Losing willing seller of real property;
- Failing to submit required documentation within the time periods specified in the grant agreement;
- Changing project scope, schedule, or budget without prior approval from WCB;
- Failing to complete the project;
- Failing to demonstrate sufficient progress; or
- Failing to comply with applicable laws or grant requirements.

#### 4.8 State Audits

Grantees of the State of California are subject to audit by the Department of Finance. It is the responsibility of the grantee to be sure that the project budget as well as all subsequent billings are justified and documented appropriately. As part of the grant process all grantees may be asked to demonstrate their ability to withstand an audit.

## 5.0 General Program Requirements

Each application submitted to the WCB must be in full compliance with all stated requirements of the solicitation to which it relates. Any changes to the proposal submission process will be posted in a timely manner on the WCB's Program website.

### 5.1 Conflict of Interest

All applicants and individuals who participate in the review of submitted applications are subject to State and federal conflict of interest laws. Any individual who has participated in planning or setting priorities for a specific solicitation or who will participate in any part of the grant development and negotiation process on behalf of the public is ineligible to receive funds or personally benefit from funds awarded through the Program. Applicants should also be aware that certain local agencies may submit applications that will compete for funding.

Failure to comply with the conflict of interest laws, including business and financial disclosure provisions, will result in rejection of the application and any subsequent grant agreement being declared

void. Other legal actions may also be taken.

### 5.2 Confidentiality

Once the application has been submitted to the WCB, any privacy rights, as well as other confidentiality protections afforded by law with respect to the application package will be waived. All applications, communications, or other documentation received by WCB is subject to the Public Records Act (Gov. Code section 6250, *et seq.*).

### 5.3 Compliance with Laws

Activities funded under the Program must be in compliance with applicable State and federal laws and regulations and applications may include in their budgets the funding necessary for compliance-related tasks. As part of the application, applicants must identify expected required permits, state whether they have received the required permits or describe the process through which the permits will be obtained, and indicate which permits could significantly delay project implementation.

### 5.4 Signage

All successful grantees will include signage, to the extent practicable, informing the public that the project received funds through the WCB.

### 5.5 California Conservation Corps

In administering the Program, WCB shall give preference to projects that utilize the services of the California Conservation Corps or Community Conservation Corps, as defined by Public Resources Code section 14507.5. (Pub. Resources Code, § 5845.8.)

### 5.6 Labor Code Compliance

Grants awarded through the Program may be subject to prevailing wage provisions of Part 7 of Division 2 of the California Labor Code (CLC), commencing with section 1720. Typically, the types of projects that are subject to the prevailing wage requirements are public works projects. Existing law defines "public works" as, among other things, construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds.

Successful grantees shall pay prevailing wage to all persons employed in the performance of any part of the project if required by law to do so. Any questions of interpretation regarding the CLC should be directed to the Director of the Department of Industrial Relations (DIR), the state department having jurisdiction in these matters. For more details, please refer to the DIR website (<http://www.dir.ca.gov/>).

### 5.6 Environmental Compliance

Activities funded under the Program must be in compliance with applicable State and federal laws and regulations, including the California Environmental Quality Act (CEQA), National Environmental Policy Act (NEPA), and other environmental permitting requirements. The project applicant is responsible for project compliance and applications may include in their budgets the funding necessary for compliance-related tasks.

Applications for activities that are subject to CEQA and/or NEPA must identify the state and/or federal lead agency or agencies and provide documentation evidencing that the agency or agencies have accepted the lead agency role. The WCB will not award funding for project implementation until any required environmental review pursuant to CEQA and/or NEPA has been completed and all required permits have been obtained.